IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.1527 of 2006 (O&M)

DATE OF DECISION: FEBRUARY 22, 2007

Siri Chand

...PETITIONER

VERSUS

State of Haryana and others

...RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. C.S.Rana,Advocate,
for Mr.Mahendra Tewatia, Advocate,
for the petitioner.

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Petitioner Siri Chand, husband of the complainant, has filed this criminal revision, which is barred by limitation, against the judgment dated 7.10.2005 passed by the Additional Sessions Judge, Faridabad, whereby the judgment of conviction passed against the accused by the trial court was upheld, but the accused were ordered to be released on probation.

2. I have heard the counsel for the petitioner and gone through the judgments passed by the Courts below.

3. In this case, the accused were convicted by the trial court vide judgment dated 4.12.2004 under Sections 323,324,325 read with Section 149 IPC and vide order of sentence dated 6.12.2004, they were sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each for the offence punishable under section 148 IPC, to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.500/- each for the offence punishable under section 323 IPC read with Section 149 IPC, to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.500/- each for the offence under Section 324 read with

Section 149 IPC and to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1000/- each for the offence punishable under Section 325 read with Section 149 IPC. In default of payment of fine, each of the defaulter accused was ordered to further undergo rigorous imprisonment for a period of one month under each section. Against the aforesaid judgment, the accused preferred an appeal which was also dismissed. However, the order of sentence was modified and the accused were ordered to be released on probation by the Additional Sessions Judge, Faridabad. Hence, this criminal revision.

4. Counsel for the petitioner contends that the learned Appellate Court erred in law while giving the benefit of probation to the accused. Counsel further contends that keeping in view the facts and circumstances of the case and the manner in which the occurrence took place, the accused were not entitled to be released on probation. He, therefore, prays that the order of the Appellate Court qua the sentence may be modified and the sentence deserves to be enhanced.

5. After hearing the counsel for the petitioner and going through the record of the case, I do not find any merit in this criminal revision. In my opinion, the Appellate Court has considered each and every aspect of the matter while releasing the accused on probation. It has been observed that the accused are the first offenders and have never been convicted before in any other case. They have faced the protracted trial for the last more than ten years and they are poor persons and are the only bread earners in their families. It has also been observed by the Appellate Court that there is no such evidence on the file from which it can be considered that they are incorrigible and cannot be reformed. So, they must be given a chance to

reform.

6. In view of the above, I do not find any illegality or infirmity in the judgment dated 7.10.2005 passed by the Additional Sessions Judge, Faridabad, whereby the accused were ordered to be released on probation.

7. Hence, the criminal revision is dismissed.

February 22, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE